IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION No.18612 OF 2006

Between:

M/s.Sundaram Motors, rep. by its
Deputy Manager – Accounts,
Sri G.V.P.Raja Sekhar.

....PETITIONERS

and

Assistant Commissioner (CT)(LTU),
Begumpet Division, Hyderabad,
And others.

... RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.18612 OF 2006

O R D E R

(Per Sri Justice J.Chelameswar)

This writ petition is filed with a prayer as follows:

> **"… Hon'ble Court may be pleased to issue a writ or order or direction particularly one in the nature of Writ of Mandamus granting stay of collection of the disputed tax of Rs.12,47,535/- for the assessment year 2002-03 (CST) arising in pursuance of the stay rejection order of the third respondent dated 04.08.2006 passed in CCT's Ref.No.LIII(2)/600/2006 pending disposal of the appeal before the second respondent or to pass …".**

The petitioner is a limited company and an assessee on the rolls of the 1st respondent both under the APGST and CST Acts engaged in the business of sale and service of motor vehicles, parts and accessories etc.

For the assessment year 2002-2003, the petitioner's liability for tax under the CST Act came to be determined by the 1st respondent by his proceedings dated 31.03.2006. The petitioner claims that a part of the turn-over pertains to inter-state sales, which is liable to be assessed at a lower rate of tax against the C-Forms. However, admittedly the C-Forms were not produced, and therefore, the claim of the petitioner was rejected. Aggrieved by the

decision, the petitioner carried the matter in appeal before the 2nd respondent herein. Pending the appeal, the petitioner sought stay of recovery of the disputed tax. The said application came to be rejected. Hence, the present writ petition.

It is asserted by the petitioner that the petitioner is making efforts to obtain C-Forms. It is a settled position of law that if really the transactions were covered for an assessment at a lower rate of tax against the C-Forms, the same could be produced even at the stage of the appeal.

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage itself by directing the respondents not to recover the disputed tax, which is the subject matter of appeal before the 2nd respondent subject to the condition the petitioner deposits 50% of the disputed tax, within a period of four weeks from today. The amount of tax, if any, paid pursuant to the assessment order of the 1st respondent, shall be given credit while computing the above-mentioned amount of 50% of tax.

With the above direction, the writ petition is disposed of.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

26th SEPTEMBER, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

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WRIT PETITION No.18612 OF 2006
(Per Sri Justice J.Chelameswar)

26TH SEPTEMBER, 2006